

FILED

July 10 2008

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

***Donn Thomas Borden***

P. O. Box One  
Ronan, MT 59864  
Tele/Fax: 406-676-4448  
Email: DTBorden@aol.com

July 10, 2008

The Hon. Members of the Montana Supreme Court  
Commission on the Code of Judicial Conduct

Transmitted via facsimile

To: The Hon. Members:

Greetings:

I am Donn Thomas Borden, and I am writing to you to express my support of the Proposed Rule 3.10, Practice of Law, as I understand it. I base my support on both personal experience and that attribute often referred to as common sense.

My personal experience is two-fold. I am retired from a profession that, by federal regulation, strictly limited related activities within the scope of that profession, largely as a concern for public safety. While these types of constraints may be considered as onerous by some individuals, the end effect is for the betterment of the society as a result of carefully thought out proposals such as the topic at hand.

My personal experience in the arena of Law concerns that of a recent civil case in which I was the Plaintiff in a Montana Justice Court. I presented my case and waited for approximately 18 months for a decision from a law-trained justice of the peace who also operated a private practice. I add that the decision in my case was only rendered after I filed a complaint with the Montana Judicial Standards Commission. The quality of that decision was predictable.

Yet, in his response to the Commission, this justice of the peace, in his defense, went to considerable length in his narrative to describe his workload and how difficult it was to complete his workload. Yet, he has time for a private law practice.

FILED

JUL 10 2008

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

There is an argument that a person's having been graduated from a school of law and having a law degree is advantageous in the discharge of the duties of the judge of a lower court. I find that argument lacking in merit and I believe a statistical analysis will support my opinion. Throughout the United States and other countries justice courts, small claims courts, traffic courts and others are presided over successfully by lay individuals who are generally quite competent to deal at the level and scope of their respective jurisdictions. Yet, their lack of professional credentials precludes their advancement to a higher level of court. Personally, I find suspect the motives of any individual who, after completing a course of advanced instruction and licensure, then chooses to occupy a position subordinate to his or her qualifications. Again, this type of situation suggests self-serving political ambitions rather than a commitment to a life of service.

Another argument might be that serving in the lower courts provides training for advancing to district courts and higher. Again, this argument is flawed inasmuch as it implies "training", which in turn implies the supervision of a mentor. How such a process would function is left to the imagination. And from where are the resources to be drawn to support such a scheme?

The Judicial System exists at the pleasure and for the benefit of the People. Although reality often supersedes our idealistic views of the Universe, the Judicial System must not be used as a stepping stone by individuals bent on resume' building or other personal agendas. The Judicial System is in place to serve the People. I reiterate: I vigorously support the adoption of Proposed Rule 3.10, Practice of Law.

Thank you for your attention.



Donn T. Borden